

BOARD OF POLICE COMMISSIONERS

Minutes of the Regular Board of Police Commissioners Meeting Thursday, August 7, 2003 (AMENDED)

The regular meeting of the Detroit Board of Police Commissioners was held on Thursday, August 7, 2003, at 3:00 p.m., at Police Headquarters, 1300 Beaubien, Rm. 328-A, Detroit, MI 48226.

ATTENDANCE

Board Members Present

Willie E. Hampton
Arthur Blackwell, II (ABS)
Erminia Ramirez
Edgar L. Vann, Jr. (ABS)
Megan P. Norris

Department Personnel Present

AC Walter E. Shoulders
AC Ella Bully-Cummings
AC Tim Black
DC Fred Campbell
DC Pamela Evans
DC Gary Christian
Lt. Raymond Nolan
Lt. Jeffery Romeo
Sgt. Debbie Jackson
Sgt. Sandusky
PO Reggie Crawford
PO James Watson
PO Irvette Reed
PO Kim Bennett
PO Walter Huggins
PO Martin Singleton
PO Derrick Royal
Civ. Patrice Woodward
Atty. Nancy Ninowski

Board Staff Present

Dante' L. Goss, Executive Director
Denise R. Hooks, Attorney/Supv. Investigator

Board Staff Present

Arnold Sheard, Interim Chief Investigator
E. Lynise Bryant-Weekes, Personnel Director

RECORDERS

Jerome Adams
Felicia Hardaway
Kellie Williams

OTHERS PRESENT

Ms. Walters
Ron Scott
Bernice Smith
DPOA Atty. James Moore
Fox 2 News
Mike Payne, WWJ 950

1. CALL TO ORDER

Chairperson Hampton called the regular meeting of the Detroit Board of Police Commissioners to order at 3:15 p.m.

2. APPROVAL OF MINUTES

- **Thursday, July 31, 2003**

MOTION: Commissioner Hampton made the motion to approve the Minutes listed above.

SECOND: Commissioner Norris seconded the motion.

VOTE: All in attendance voted in the affirmative.

3. REPORT FROM THE CHAIR

Resolutions

RESOLUTION HONORING LIEUTENANT PAUL JANNESS

WHEREAS On July 3, 2003, Lieutenant Paul Janness, of the Eleventh Precinct Investigative Operations Unit, retired from the Detroit Police Department after thirty-three (33) years of exemplary service to the citizens of Detroit, and

WHEREAS Paul Janness was appointed to the Detroit Police Department as a Police Officer on June 15, 1970, and

WHEREAS Upon graduation from the Detroit Police Academy, Officer Janness was assigned to the Tactical Mobile Unit, and

WHEREAS On November 9, 1970, he was transferred to Patrol at Thirteenth Precinct.

WHEREAS On June 15, 1977, Officer Janness was promoted to the rank of Sergeant and was assigned to Patrol at the Thirteenth Precinct, and

WHEREAS On August 19, 1988, Sergeant Janness was promoted to the rank of Lieutenant and was assigned to Patrol at the Eleventh Precinct. On March 30, 1998, Lieutenant Janness was assigned to the Eleventh Precinct Investigative Operations Unit, where he remained until his retirement, and

WHEREAS During his career, Lieutenant Janness has received the GOP Commemorative Award, five (5) Citations, three (3) Chief's Merit Awards, three (3) Chief's Unit Awards, three (3) Perfect Attendance Awards, two (2) Leadership Awards and numerous letters of commendations from supervisors and citizens.

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Lieutenant Paul Janness has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and dedication for thirty-three (33) years. Lieutenant Janness' actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Lieutenant Paul Janness.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.

/s/Erminia Ramirez

Commissioner

Commissioner

**RESOLUTION HONORING
LIEUTENANT DIANNA SHELDON**

WHEREAS On July 2, 2003, Lieutenant Dianna Sheldon, of the Ninth Precinct will retire from the Detroit Police Department after twenty-five (25) years of exemplary service to the citizens of Detroit, and

WHEREAS Diane Sheldon was appointed to the Detroit Police Department as a Police Officer on March 24, 1977, and

WHEREAS Upon graduation from the Detroit Police Academy, Officer Sheldon began her illustrious career at the Eleventh Precinct, and

WHEREAS In January of 1986, Officer Sheldon was promoted to the rank of Investigator. In May of 1986, she was promoted to the rank of Sergeant. In July of 1994, Sergeant Sheldon was promoted to the rank of Lieutenant, and

WHEREAS Lieutenant Sheldon's various assignments with the Department include: Mini Station Section, Ninth Precinct, Recruiting Section, Seventh Precinct Investigative Operation Unit, Sixth Precinct, Second Precinct, Crime Prevention Section, Testing and Performance Unit, Assistant Project Manager for the Promotional Examination, and the Ninth Precinct, where she remained to her retirement, and

WHEREAS During her career with the Department, Lieutenant Sheldon received numerous awards: two (2) Chief's Unit Awards, two (2) Chief's Merit Awards, one (1) GOP Commemorative Award, one (1) Citation, one (1) Perfect Attendance Award, one (1) Perfect Driving Award, one (1) Educational Award, and numerous letter of appreciation from organizations and citizens.

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Lieutenant Dianna Sheldon

has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and dedication for twenty-five (25) years. Lieutenant Sheldon's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Lieutenant Dianna Sheldon.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.
Commissioner

/s/Erminia Ramirez
Commissioner

RESOLUTION HONORING SERGEANT BRENDA CHATMAN

WHEREAS On July 18, 2003, Sergeant Brenda Chapman, of the Eleventh Precinct Investigative Operation Unit will retire from the Detroit Police Department after twenty-five (25) years of dedicated service to the citizens of Detroit, and

WHEREAS Police Officer Chapman was appointed to the Detroit Police Department as a Police Officer on October 24, 1977, and

WHEREAS Upon graduation from the Detroit Police Academy, Officer Chapman was assigned to Patrol at the Fourteenth Precinct. As a police officer with the department her assignments included the Major Crimes Division, the Patrol Support Division, the Recruiting Section and the Twelfth Precinct, and

WHEREAS On August 26, 1994 Officer Brenda Chatman was promoted to the rank of Sergeant and assigned to Patrol at the Eleventh Precinct. On August 24, 1998, she was assigned to the Eleventh Precinct Investigative Operation Unit, where she has remained until her retirement, and

WHEREAS During her career, Sergeant Chatman has received, two (2) Chief's Merit Awards, three (3) Chief's Unit Awards, one (1) Perfect Attendance Award and numerous letters of commendations from supervisors and citizens.

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Sergeant Brenda Chatman has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and dedication for twenty-five (25) years. Sergeant Chatman's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Sergeant Brenda Chatman.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.
Commissioner

/s/Erminia Ramirez
Commissioner

**RESOLUTION HONORING
SERGEANT EILEEN V. MARTIN**

WHEREAS On July 8, 2003, Sergeant Eileen V. Martin, of the Detroit Metropolitan Police Academy retired from the Detroit Police Department after twenty-eight (28) years of exemplary service to the citizens of Detroit, and

WHEREAS Eileen Martin was appointed to the Detroit Police Department as a Police Officer on February 17, 1975, and

WHEREAS Upon graduation from the Detroit Police Academy, Officer Martin was assigned to the Seventh Precinct. In addition,

she worked patrol assignments at the First and Third Precincts. On March 9, 1984, she was assigned to the Detroit Metropolitan Police Academy; and

WHEREAS On February 6, 1987, Officer Martin was promoted to the rank of Sergeant and reassigned to the Academy in March 1987, where she assumed the duties as an instructor, program developer, and registrar ("keeper of the records") for the past 19 years; and

WHEREAS During her career, Sergeant Martin was the recipient of the following awards: the 1980 GOP Commemorative Award, one (1) Chief's Merit Award, three (3) Chief's Unit Award, and three (3) Perfect Attendance Award; and

WHEREAS Sergeant Martin is a zealous educator and has fourteen (14) earned degrees along with numerous honorary degrees. Sergeant Martin is also a licensed and ordained minister.

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Sergeant Eileen V. Martin has twenty-eight (28) years of loyal service to the Detroit Police Department and the citizens of Detroit. She is a highly respected and admired professional who exhibits honesty and integrity throughout the law enforcement community. Sergeant Martin's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Sergeant Eileen V. Martin.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.
Commissioner

/s/Erminia Ramirez
Commissioner

**RESOLUTION HONORING
SERGEANT ROBERT OBIDZINSKI**

WHEREAS On July 4, 2003 Sergeant Robert Obidzinski, of the Eleventh Precinct retired from the Detroit Police Department after thirty-three (33) years of dedicated service to the citizens of Detroit, and

WHEREAS Robert Obidzinski was appointed to the Detroit Police Department as a Police Officer on January 12, 1970; and

WHEREAS Upon graduation from the Detroit Metropolitan Police Academy on April 24, 1970, Officer Obidzinski was assigned to the Tactical Mobile Unit. As a police officer with the department his assignments included the Harbormaster Bureau, the Fifteenth Precinct, the Motor Traffic Section, the First Precinct, Eleventh Precinct, Headquarters Surveillance Unit, and the Special Crimes Section; and

WHEREAS On June 28, 1985, Officer Obidzinski was promoted to the rank of Sergeant and assigned to the Eleventh Precinct, where he remained until February 3, 1986 when he transferred to the Special Crime Unit (DOT). On October 26, 1987, Sergeant Obidzinski was assigned to the Mini-Station Section where he worked until March 19, 1991, when he was transferred to the Eleventh Precinct where he remained until his retirement; and

WHEREAS During his tenure with the Detroit Police Department, Sergeant Obidzinski receive two (2) Citations, five (5) Chief's Unit Awards, two (2) Chief's Merit Awards, two (2) Perfect Attendance Awards, the GOP Commemorative Award and numerous letters of commendations from supervisors and citizens,

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Sergeant Robert Obidzinski has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and

dedication for thirty-three (33) years. Sergeant Obidzinski's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Sergeant Robert Obidzinski.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.
Commissioner

/s/Erminia Ramirez
Commissioner

RESOLUTION HONORING OFFICER WILLIAM LAPERE

- WHEREAS** On July 19, 2003, Police Officer William LaPere, of the Eleventh Precinct Investigative Operations Unit, will retire from the Detroit Police Department after thirty-one (31) years of exemplary service to the citizens of Detroit, and
- WHEREAS** William LaPere was appointed to the Detroit Police Department as a Police Officer on December 4, 1972, and
- WHEREAS** Upon graduation from the Detroit Police Academy on April 6, 1973, he was assigned to the Tactical Mobile Unit, and
- WHEREAS** As a police officer with the Department, his assignments included the Eleventh Precinct, the Tactical Services Section, the Department of Transportation and the Eleventh Precinct. On July 14, 1997, he was assigned to the Eleventh Precinct Investigative Operations Unit as Crime Analysis Officer, where he remained until retirement, and
- WHEREAS** During his career Office LaPere has received the GOP Commemorative Award, one (1) Department Citation, one (1) Chief's Merit Award, four (4) Chief's Unit awards, and numerous letters of commendation from supervisors and citizens.

NOW, THEREFORE BE IT

RESOLVED

That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Police Officer William LaPere has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and dedication for thirty-one (31) years. Police Officer LaPere's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Police Officer William LaPere.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.
Commissioner

/s/Erminia Ramirez
Commissioner

**RESOLUTION HONORING
OFFICER ANNIE RAY-DONALD**

WHEREAS

On July 3, 2003, Office Annie Ray-Donald, of the Notification and Crime Reporting Section will retire from the Detroit Police Department after twenty-eight (28) years of exemplary service to the citizens of Detroit, and

WHEREAS

Annie Ray-Donald was appointed to the Detroit Police Department as a Police Officer on January 27, 1975, and

WHEREAS

Upon graduation from the Detroit Police Academy, Police Officer Ray-Donald was assigned to Stationary Traffic and began her illustrious career, and

WHEREAS

As a police officer with the Department, she has been assigned to the Seventh Precinct, First Precinct, Executive Deputy Chief's Staff, Mini Station Administration, Seventh Precinct Mini Stations, Recruiting, Communications Operations Section, and the Telephone Crime Reporting

Unit's Auto Recovery Squad, where she is currently assigned, and

WHEREAS Police Officer Ray-Donald was the recipient of two (2) Chief's Unit Awards, and numerous letters from citizens thanking the Department for her dedication and service, and

WHEREAS Police Officer Ray-Donald has displayed an interest in the lives of the citizens that she served, finding solutions to their concerns and problems, and enhancing their quality of life. Her personal involvement and commitment to numerous organizations exemplify her dedication to the citizens of the City of Detroit.

NOW, THEREFORE BE IT

RESOLVED That the Board of Police Commissioners, speaking for the citizens of the City of Detroit and the Detroit Police Department acknowledge that Police Officer Annie Ray-Donald has served the City of Detroit and the Detroit Police Department with loyalty, professionalism, integrity, and dedication for twenty- eight (28) years. Police Officer Ray-Donald's actions were in accordance with the highest standards and traditions of the Detroit Police Department.

We salute and congratulate you, Police Officer Annie Ray-Donald.

DETROIT BOARD OF POLICE COMMISSIONERS

/s/ Willie Hampton
Chairperson

/s/Arthur Blackwell
Vice Chairperson

/s/Megan P. Norris
Commissioner

/s/Edgar L. Vann, Jr.
Commissioner

/s/Erminia Ramirez
Commissioner

MOTION: Commissioner Hampton made the motion to adopt the above Resolutions.

SECOND: Commissioner Norris seconded the motion.

VOTE: All in attendance voted in the affirmative.

4. SECRETARY REPORT – EX. DIR. GOSS

Suspension

On August 7, 2003, **Police Officer Gregory Star**, badge 4387, assigned to the Eighth Precinct, was suspended **without pay**, by Chief Jerry A. Oliver, Sr.

On Wednesday, September 4, 2002, Officer Gregory Star, appeared at a Chief's Disciplinary Hearing concerning alleged misconduct contained in Disciplinary Administration Unit File Nos. 01-0384, 01-0564, and 02-0206.

At the Chief's Disciplinary Hearing, Officer Star was found guilty of the charges and specifications contained in these files, and the penalty of dismissal from the Detroit Police Department was rendered. As a result of the penalty of dismissal being rendered, Officer Star was subsequently suspended with pay on September 8, 2002, pursuant to Special Order 02-03 entitled, "Suspensions With Pay." At the time of his suspension, Officer Star was advised by his command that he will remain suspended with pay pending the adjudication of any appeal through the Department disciplinary process after the Chief's Disciplinary Hearing.

Subsequent to the Chief's Disciplinary Hearing, Officer Star did appeal the decision rendered at the hearing to Police Trial Boards. The charges and specifications in each of the three Disciplinary Administration Unit files have now been heard by three individual Police Trial Boards, although only one has to date rendered a decision. The Police Trial Board which heard the charges and specifications contained in Disciplinary Administration Unit File No. 01-0384 upheld the penalty of dismissal rendered at the Chief's Disciplinary Hearing.

On June 11, 2003, the Department received an appeal/request by the Detroit Police Officers Association to arbitrate the decision of the Police Trial Board concerning Disciplinary Administration Unit File No. 01-0384. On July 16, 2003, the Association acknowledged that the arbitration was scheduled for arbitration on August 13, 2003.

On July 29, 2003, the Department received a letter from the Association requesting adjournment of the August 13, 2003 arbitration. The reason for the request is the unavailability of Officer Star. The reason stated in the Association's letter as to the unavailability of Officer Star is that he has a trip to Peru scheduled, and he will be leaving on the trip on August 6, 2003, and will not return until August 28, 2003.

The Department has sent a letter to the Association in which the Department informed the Association that it objects to the adjournment and intends to proceed to arbitration on August 13, 2003. The Department does not find a trip to a foreign country to be sufficient reason to cancel a scheduled arbitration hearing that has been acknowledged by both parties to the arbitration. It is expected that the Association will now request an adjournment from the arbitrator on or before August 13, 2003.

A member suspended with pay is expected to make himself available to the Department generally. In particular, he or she is expected to make himself or herself available as to any disciplinary hearings regarding the discipline case on which his suspension is based. Here, Officer Star has made a deliberate and conscious choice not be available for his scheduled arbitration hearing regarding his dismissal from the Detroit Police Department, thereby increasing the period of his suspension with pay.

Officer Star's self-imposed unavailability for his scheduled arbitration represents a changed circumstance as to his suspension with pay.

Unless contravened by this Commission, the above suspension without pay will stand.

DPOA Atty. Moore stated the Association received this morning that the Department was going to proceed in this matter and I am here in opposition to the Chief's recommendation and to ask that you do not adopt it and in fact vote to contravene it. This officer was suspended without pay in September of 2000. That suspension without pay was overturned by one of the permanent umpires involving the City of the Department and the DPOA. The reasons that were advanced for the suspension without pay three years ago were more compelling than the reason offered by the Department today. Frankly, this appears nothing more than retaliation by the Department for Officer Star and the Association exercising their rights under the collective bargaining agreement. It would appear to be an additional violation of his contract rights and a violation of the public employment relations act, for it is a violation of that act to retaliate against someone exercising protected concerted activity, which a request for adjournment certainly falls within. I don't think there are the kind of reasons that allow a suspension without pay, which is the unusual circumstance. Secondly, at a hearing this morning in front of Umpire Barry Brown, who has been selected to hear this case next week, he granted the Association's request to adjourn this case. Although the department conveniently leaves it out of the Chief's report, we were only asking to adjourn this case to the next available date of Umpire Brown, which is September 10th (less than 30 days from its originally scheduled date). The Department also leaves out in its recommendation to you the fact that although it is true that the association agreed to the initial arbitration date of

August 13th, that decision was made on July 16th and Officer Star had already made these arrangements to be out of the country and submitted a substantial amount of deposits and otherwise, so he was not aware that this case had been scheduled. As to the Chief's suggestion and I believe this is on the second page of his letter, that officers are expected to make themselves available. I don't think that there is any suggestion that officers even if they are suspended with pay are under some sort of house arrests. Nor will you find anything in the General Orders or the Manual that somehow required Officer Star to give a daily accounting of where he is. The Manual in Section 102.4-5 states:

"Conduct during suspension absent the authority and duty to act as a peace officer, a member is not subject to rules, regulations, orders or procedures of the Department during suspension. However, behavior or conduct of a suspended member is incompatible with the minimum requirements of a police applicant may prohibit reinstatement."

So there is really nothing in the Manual or the General Orders that obligated Officer Star to give a daily accounting of himself to check in with the Department or otherwise make his plans all subject to whatever got scheduled without his knowledge. Again, it was scheduled without his knowledge, he did not plan this trip once he found out this case was being heard, the plans were made before the August 13th date that was selected. In addition I would point out the Department's concern over the cost associated with this, the fact that the officer will be apparently suspended with pay for an additional 28 days under this scenario, because we are now going to hear this case on September 10th. That concern is disingenuous. If you look at the chronology of this case and I have it available and I have a lot of paperwork in this case that I would be happy to share with you, but a couple of dates are significant. The Chief fired Officer Star in September of last year and he was promptly suspended without pay. The Trial Board was held three (3) months later.

Comm. Norris stated I thought he was suspended with pay at that time?

DPOA Atty. Moore stated that he was sorry and that Comm. Norris was correct. He was suspended with pay in September. The Trial Board was held three (3) months later. It was held on December 9, 2002. The Trial Board's decision is dated three (3) days later, on December 12, 2002. But the Trial Board for reasons that no one from the Department explained this morning at our hearing, did not mail out its decision for over five (5) months. The transmittal document of the December 12, 2002, trial board decision was mailed on May 28, 2003. Had the Department promptly issued that trial board decision rather than sitting on it for over five (5) months, we could

have had arbitration months ago. So to suggest somehow that this is all Officer Star's fault and we are now at this juncture is nonsense. We believe that a decision to suspend this officer without pay in anticipation of his non appearance at a hearing next week that has now been officially adjourned by an umpire, not only violates the contract but it violates the Public Employment Relations Act, and we urge you to deny the Chief's request.

Comm. Norris stated that she did not have questions for DPOA Atty. Moore but she may have questions for Atty. Nancy Ninowski.

Comm. Ramirez asked if the date was September 4, 2000 and what was the second date? Was it September 10th?

DPOA Atty. Moore answered that he thought that the suspension without pay.... The Chief's hearing was held on according to his notes, September 4, 2002. The suspension without pay he believed was effective on the 7th of September.

Comm. Ramirez asked with pay?

DPOA Atty. Moore answered a suspension with pay. The Trial Board was held on December 9, 2002.

INAUDIBLE

Comm. Hampton asked DPOA Atty. Moore from his perspective that delaying the Trial Board for four (4) or five (5) months you alluded to, what impact did that have on the suspension, did it increase the suspension, what impact if any?

DPOA Atty. Moore stated that the officer remains suspended with pay, but the urgency with which the Department says we have to hold this arbitration hearing next week or the officer should be taken off the payroll. If the Department's disciplinary process acted promptly, if they had issued that trial board decision in December or even January; we could have scheduled this arbitration in February, March, April; and this would have been done by now. For reasons unknown to us, they sat on that trial board decision for over five (5) months. Now, because it conflicts with a pre-scheduled matter by this officer, they are going to try and suspend him without pay. We think that is outrageous.

Atty. Nancy Ninowski stated that she would concur with Atty. Moore in that. This matter was brought before an arbitrator this morning. An adjournment was requested on behalf of the union. The Department objected to that request and the arbitrator did grant the union's request for an adjournment. Be that as it may, this is the first time an issue of this nature is being

considered by anybody. She wanted to impress upon the Board the importance of this issue. She stated that it defines how an officer who is on a suspended duty status, conducts himself or herself during that timeframe. The Department is bringing this issue before the Board at a changed circumstance argument. Let me go into some background and I don't mean to be repetitive to Atty. Moore, but this is an extremely important issue to the Department. My argument will be very brief.

On September 4, 2002, there was a Chief's Disciplinary Hearing concerning three (3) separate disciplinary cases on Officer Star. Officer Star was dismissed from the Department on each case. Officer Star exercised his appellate rights under the Collective Bargaining Agreement and appealed each one of those cases separately to a police trial board hearing.

Comm. Norris asked the Star decision that we have talked about before does not involve suspension for the issues that were before the Board in September of 2002 or they do involve the same issues?

Atty. Ninowski answered yes. The Star suspension without pay arbitration that we refer to does refer to those disciplinary cases.

Comm. Norris asked same actions?

Atty. Ninowski answered yes.

Comm. Norris answered okay.

Atty. Ninowski stated that the Department's position of course is that this is a changed circumstance and a different issue.

Comm. Norris stated I understand.

Atty. Ninowski stated that Officer Star exercised his rights under the Collective Bargaining Agreement. He appealed each one of those decisions to a police trial board hearing. Police trial board hearings were convened on some of the cases, and they are still ongoing. On one case, the case that is scheduled for arbitration or was scheduled for arbitration on August 13, 2003. The Trial Board came to a conclusion and upheld the Chief's decision to dismiss Officer Star from the Detroit Police Department. Under the contract, the Union has the right, not the officer but the Union has to the right to appeal that trial board decision and that is what happened in this case.

On June 11, 2003, the Union advised the Department that they were going to pursue an appeal in the Gregory Star matter. Discussions went back and forth to decide on a date. On July 16, 2003, the Union sent the Department a letter confirming the August 13, 2003 date for arbitration on Gregory Star.

On July 29, 2003, the Union sent a letter to the Department requesting an adjournment because Officer Star had one standing reservation for a vacation in Peru, and it would cost him \$4,000 to cancel his vacation plans. Now this is the crux of the Department's argument. When an officer is on suspended status, or when a member is on suspended status, and he or she makes a conscious decision with respect to circumstances within his or her control; non-emergency in nature, not to attend an arbitration hearing that warrants a change in that officer's duty status to suspended without pay.

Comm. Norris stated to Atty. Ninowski if she would agree if the union attorneys were not available and they could have chosen not to agree to that date, and you would have kept working for another date that was available to all of the parties?

Atty. Ninowski stated yes.

Comm. Norris stated that if the Union had been aware that the officer was not available, the Union without ever saying anything, could have simply said "we are not available during this two (2) week period." Is that

Atty. Ninowski answered absolutely. She stated that something else could have been scheduled in its place and posted definitively.

Comm. Hampton asked if the vacation was pre-approved?

Atty. Ninowski answered, "I'm sorry?"

Comm. Hampton asked was the vacation pre-approved by his department?

Atty. Ninowski stated that it was her understanding that there was no vacation. Let me tell you what a suspension without pay or a suspension with pay means. The Department did not approve any vacation.

Comm. Hampton asked if the officer had the vacation request in prior to the suspension?

Comm. Norris stated that there is no vacation request because he is suspended.

Atty. Ninowski stated there is no vacation request. Let me explain. A suspension with pay, an officer who is suspended with pay receives a full paycheck, receives full benefits.....

Comm. Hampton asked with pay?

Atty. Ninowski stated an officer receives vacation time, furlough time, sick time, seniority and all of that. When Officer Star goes on vacation, that is not taken away from his furlough or from his vacation time, sick time or any other time. So in essence, what he is doing is, he is asking the Department and the taxpayers of this city to pay for his vacation. The last point I would like to make is under the Collective Bargaining Agreement; Officer Star has a make whole remedy. Let me explain this to you; if you grant the Department's petition for suspension without pay today, and this matter proceeds to arbitration and the arbitrator reinstates Officer Star to this Department; Officer Star under the Collective Bargaining Agreement can collect his back pay, his benefits, and his seniority. However, if you do not grant the Department's petition for suspension without pay; this matter proceeds to arbitration and Officer Star is ultimately dismissed from this Department, the Department has no recourse. We cannot go back and ask him for the six (6) weeks, the two (2) months worth of pay. With all due respect, the Department would ask that the Board grant the suspension without pay.

Comm. Norris asked Atty. Ninowski if she agreed that this is now scheduled for an arbitration that everybody has agreed on and that it will go forward on September 10th? Is that correct?

Atty. Ninowski stated that she is not aware that a date has been agreed upon between the Department and the Union. If Mr. Moore has made those recommendations, I would have no reason to doubt him.

Comm. Norris asked Mr. Moore is that correct?

DPOA Atty. Moore stated that Umpire Brown hears at least one case a month. His next regular date is the 10th.

Comm. Norris stated that was not her question. Her question was not when is his next regular date. Her question was does everybody in agreement that this case will be going forward on that date?

DPOA Atty. Moore stated that as far as we are concerned, I represented in my letters to the Department that we are available and no one from the Department has said otherwise.

Comm. Norris stated to Atty. Ninowski if it was her understanding. Comm. Norris stated that she did not understand the procedure and it will matter to her how sure we are that this thing is happening.

Atty. Ninowski stated that she has not been advised that a date has been selected. That the Union and the Department have agreed upon a date. She stated that she was certainly aware that Mr. Moore presented that date. She

is not aware that it has been confirmed by the Department as being the next arbitration date for Officer Star.

DPOA Atty. Moore stated that the umpires give us Wednesdays. Barry Brown's is the second Wednesday of every month. Except in some unusual circumstance. The 10th of September is his next date. I have represented in two (2) letters that we are available, and no one from the Department has suggested that it's a problem. We are prepared to go forward on September 10th. That was part of my request to postpone. Let me also add, that we have scheduled another case for the September 13th. We are not losing that date on the arbitration schedule. Another discipline case not involving suspensions has been scheduled and I just confirmed it this afternoon. So we are using the date.

Atty. Ninowski stated that if the Board could give her a moment, she is trying to confirm whether or not the Department has agreed with the September 10th date.

Atty. Ninowski returned and stated that her understanding is that the next scheduled arbitration date for Officer Gregory Star is September 10th.

Comm. Hampton answered okay.

DPOA Atty. Moore stated that perhaps the Board is aware in order for this suspension not to occur, at least two (2) members have to contravene it. So there needs to be an affirmative decision.

Comm. Norris stated that we are aware of that.

Unless contravened by this Commission, the above suspension without pay will stand.

Comm. Norris stated to Chairperson Hampton that she wished to contravene on the case of Police Officer Gregory Star. If she may, because of the precedent setting issues that were raised. She would like to make it clear the basis for that contravention so that either party does not misinterpret it. She stated that we are reminded time after time that these suspensions without pay are to be dealt with on a case-by-case situation, and not dealt with just by the nature of the charge against the officer. I do not agree that an officer who is suspended with pay can go anywhere they want to go; whenever they want to go without regards as to when the Department needs them. I think that you do have a duty to show up when you are asked to show up. I also do not agree that an officer suspended with pay can "pick and choose" when they want to arbitration to occur so that they can delay the process in any way. But, I think in this specific case, the facts do not support that is what occurred. I think in

this specific case, what happened is that the Union didn't communicate with its client. I will tell the Union that if we got another one of these, I might uphold it saying that it is your job when you agree to an arbitration date, to make sure that your client is available. Since we have never said that before, I am not comfortable sticking Mr. Starr with his Union's mistake this time. It looks like there was a prepaid trip and it was an expensive trip. It wasn't to Toledo, and the delay is not a long delay, and it is a delay that the Department has already played its own role in. I think with those very specific facts in this particular case, I vote to contravene.

Comm. Ramirez supported the contravention.

Comm. Hampton stated that Comm. Ramirez contravened and I also concur to contravene as well.

CITIZEN COMPLAINTS RECEIVED

	<u>This Week</u>	<u>Year to Date</u>
Weekly Count of Complaints:	18	723
Weekly Count of Allegations:	33	1,353
Arrest	5	54
Demeanor	10	455
Entry	0	19
Force	1	103
Harassment	1	51
Procedure	9	456
Property	1	50
Search	0	38
Service	6	124

Pending Cases

As of August 6, 2003, the Office of the Chief Investigator (OCI) has a total of **687 pending cases**, which include **205 cases** with an age of 0-45 days, **61 cases** with an age of 46-60 days, **93 cases** with an age of 61-90 days, and **79 cases** with an age of 91-120 days, **198 cases** with an age of 121 days – 6 months, and **51 cases** with an age of 7-9 months.

2002

During the past week: 21 Year to Date: 628

5. CHIEF'S REPORT

DETROIT POLICE DEPARTMENT **MIND'N OUR BUSINESS**

Board of Police Commissioners

The Detroit Police Department's mission is building a safer Detroit through community partnerships. Therefore, the following enforcement actions were conducted during the week of July 30th-August 5th, 2003:

ORGANIZED CRIME AND GANG DIVISION

The Conspiracy Intelligence, South-East, North-West and Vice Sections conducted six enforcement actions that resulted in (2) felony and (24) misdemeanor arrests. These enforcement actions resulted in the confiscation of 5,585.9 grams of marijuana, 27.9 grams of cocaine, 15 grams heroin and 11,191 pills for a combined street value of \$1,796,936.00. \$1,218.00 in U.S. currency, (1) handgun and (1) long-gun were confiscated from these enforcement actions.

SEVENTH PRECINCT

On August 5, 2003, the Seventh Precinct hosted the 20th Anniversary "National Night Out" at 8411 E. Forest. National Night Out is an event that generates support for anti-crime programs and strengthens police and community relations. There were a variety of foods, entertainment, games and activities for the children. The speakers offered tips on personal safety and crime prevention.

TENTH PRECINCT/COMMERCIAL AUTO THEFT UNIT (C.A.T.U.)

On August 1, 2003, officers of the Tenth Precinct were dispatched to the 5000 Block of Maplewood, on an "Auto Stripping In Progress." Upon arrival at the location, the officers investigated a pickup truck parked in front, which was reported as stolen. They also recovered a stripped pick-up truck and stolen auto parts in the garage of the location. The officers of the Tenth Precinct requested the assistance of the C.A.T.U. As a result of combined efforts, surveillance was set up on the location. One subject was arrested and charged with "Operating a Chop Shop, and Receiving and Concealing a Motor Vehicle Habitual 4th."

Chief of Police Jerry A. Oliver, Sr.

6. PRESENTATION – INTEGRITY

AC Black of the Investigations Portfolio stated that Chief Oliver wanted the Board of Police Commissioners to view this presentation before it was distributed to all members of the Detroit Police Department on integrity.

AC Black introduced DC Fred Campbell, Professional Accountability Bureau, who gave the presentation. DC Fred Campbell showed a videotape presentation. A Law Enforcement Oath of Honor handout was distributed. **(See attached)**

Questions/Answers:

DC Campbell stated that the Department has downloaded a piece from International Association of Chiefs of Police (IAOCP), which is entitled the "Code of Conduct." He stated that it was an excellent piece and it will be incorporated into the Department's training. There are a number of things that we will try to do to keep the officer's focused on integrity issues because we seem to think that it is a problem in certain precincts and divisions.

Comm. Norris asked if this was being shown at all outside of the precincts where we have senior folks who have moved to bureaus and departments?

DC Campbell stated that the videotape was shown at the Roundtable meeting Monday and Chief Oliver requested that DC Campbell show the presentation at the Mayor's Directors meeting on Tuesday. It was shown at the Mayor's Directors meeting and it was awesome for them. It will be posted on the DPD web page and also the Cable Commission has a copy of the CD-rom. They will make it available on the cable channel 10.

7. DISCIPLINARY APPEALS ARGUED – APPEALS SUBCOMMITTEE

Comm. Norris chaired the Appeals Subcommittee:

**DISCIPLINARY APPEALS ARGUED
July 24, 2003**

POLICE OFFICER VAUGHN THORNTON
Badge 4639

BPC 03-001D

Charges

I. Mistreatment of Any Person or Prisoner, one specification; and **II.** Conduct Unbecoming An Officer, one specification.

Trial Board Decision

Dismissed Charge I, and found guilty of Charge II.

One-day suspension.

Recommendation

Uphold the Trial Board's decision in its entirety.

MOTION: Commissioner Norris made the motion to approve the Recommendation.

SECOND: Commissioner Hampton seconded the motion.

VOTE: All in attendance voted in the affirmative.

POLICE OFFICER FRANK SCOLA
Badge 3903

BPC 03-004D

Charge

Conviction in a Court of Criminal Jurisdiction.

Trial Board Decision

Guilty.

Dismissed from the Department.

Recommendation

Uphold the decision of the Trial Board in its entirety.

MOTION: Commissioner Norris made the motion to approve the Recommendation.

SECOND: Commissioner Ramirez seconded the motion.

VOTE: All in attendance voted in the affirmative.

POLICE OFFICER IRVIN UPSHAW
Badge 1198

BPC 03-005D

<u>Charge</u>	Conviction in a Court of Criminal Jurisdiction.
<u>Trial Board Decision</u>	Guilty. Dismissed from the Department.
<u>Recommendation</u>	Uphold the decision of the Trial Board in its entirety.

MOTION: Commissioner Norris made the motion to approve the Recommendation.

SECOND: Commissioner Ramirez seconded the motion.

VOTE: All in attendance voted in the affirmative.

8. OTHER BUSINESS

None.

9. ORAL COMMUNICATION FROM THE AUDIENCE

Ms. Bernice Smith stated that a break-in occurred at property that she owns. She claims that the streets located in the 4th Precinct area of Ratcliff, McDonald, and Sorrento are high drug trafficking neighborhoods.

Mr. Ron Scott addressed the board regarding the decision rendered concerning the civil suit of Arnetta Grable vs Eugene Brown. He informed the Commission that a Freedom of Information Act (FOIA) request has been made by a couple of local organizations regarding the Shoulders Report. A hearing date has been scheduled for Wednesday, August 12, 2003, in Judge Wendy Baxter's courtroom at 9:00 a.m. He urged the Commission to make a request to view the

Shoulders report again. Mr. Scott asked the Commission to consider in the cases where civil actions are rendered, to discuss with the Prosecutor whether or not these cases might be reopened to look for any type of criminal culpability.

Comm. Norris stated you wanted to respond to the last part. Because Comm. Hampton and Comm. Ramirez were not here probably the last time we had lengthy discussions about the Shoulders Report. The Commission has asked for that report repeatedly. We have asked Director Goss to draft a letter to the City Council and Corporation Counsel about this most recently. I still maintain that we should receive it for lots of reasons. I actually spoke to Judge Rosen this week, who agreed that it is something that we should see. We historically have not gotten involved in anyway as a Commission, in whether the Prosecutor chooses to charge. I don't think, at least from my perspective, that we want to get involved in that. The reason is that I think that is where we lost the ball. My feeling is that historically what the Department did is that the Department looked at whether or not there was criminal conduct. If the Department determined that at the moment the gun was fired, there was no criminal conduct, so no prosecution took place. Then everybody went home, as opposed to looking at whether there were policies and procedures, and judgment errors, and all kinds of other things along the way up to when the trigger got pulled; that might warrant some level of discipline or some level of training or review, or some level of something else. I think that if this Commission gets into the business of therefore we charge you or therefore we don't charge you; we are falling into the trap, which is the wrong trap. The issue is and the reason we have wanted the Shoulders Report for long is what does it tell us if anything, about mistakes that were made along the way in recruiting, training, and oversight in all of those other kinds of things that lead to those problems as opposed to just evaluating at the moment that the gun was fired.

Ron Scott stated that I think that if you look at the transcript of the case, you will find that some of those matters do come up in terms of training, decision-making and so on. By the same token, I think that you don't want to swing the pendulum to one end or the other. If you talk about training and all of the precedent situations, then obviously, you would want to talk about what happens with the individuals who still retain status on the Department. These are the individuals, if they stay on the Department, who will become part of the command structure. That is what I am concerned about is that ten (10) years from now, when we are no longer talking about this, whether or not one of the individuals about whom we are discussing will be Professional Accountability, will be Assistant Chief or something else. Therefore, you have a culture that continues, that I am sure that we all want to change.

Comm. Hampton stated that we would honor the request. Comm. Hampton stated that it is his understanding from Exec. Dir. Goss is that there is a very strong draft being put together and we will follow up on that. Hopefully, by next meeting we will have a more intelligent answer for you.

Ron Scott stated that one of the Commissioners is welcome to join them on the 12th of August, perhaps at a great distance if you don't want to be identified.

Ms. Walters expressed her concern regarding drug activity. She stated that if we do not conquer drug activity, it will simply move from one area to another.

10. ANNOUNCEMENT OF NEXT MEETING

Thursday, August 14, 2003 @ 6:30 p.m.
GREATER CHRIST BAPTIST CHURCH
3544 IROQUOIS
DETROIT, MI 48214

11. ADJOURNMENT

Meeting was adjourned at 4:00 p.m.

Respectfully Submitted,

DANTE' L. GOSS
Executive Director
Board of Police Commissioners

DLG/kdw/fyh